

FIRST REGULAR SESSION

HOUSE BILL NO. 773

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ENTLICHER.

1940H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 115.225, 115.237, and 115.493, RSMo, and to enact in lieu thereof four new sections relating to elections.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 115.225, 115.237, and 115.493, RSMo, are repealed and four new
2 sections enacted in lieu thereof, to be known as sections 115.225, 115.237, 115.493, and
3 115.506, to read as follows:

115.225. 1. Before use by election authorities in this state, the secretary of state shall
2 approve the marking devices and the automatic tabulating equipment used in electronic voting
3 systems and may promulgate rules and regulations to implement the intent of sections 115.225
4 to 115.235.

5 2. No electronic voting system shall be approved unless it:

6 (1) Permits voting in absolute secrecy;

7 (2) Permits each voter to vote for as many candidates for each office as a voter is
8 lawfully entitled to vote for;

9 (3) Permits each voter to vote for or against as many questions as a voter is lawfully
10 entitled to vote on, and no more;

11 (4) Provides facilities for each voter to cast as many write-in votes for each office as a
12 voter is lawfully entitled to cast;

13 (5) Permits each voter in a primary election to vote for the candidates of only one party
14 announced by the voter in advance;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (6) Permits each voter at a presidential election to vote by use of a single punch or mark
16 for the candidates of one party or group of petitioners for president, vice president and their
17 presidential electors;

18 (7) Accurately counts all proper votes cast for each candidate and for and against each
19 question;

20 (8) Is set to reject all votes, except write-in votes, for any office and on any question
21 when the number of votes exceeds the number a voter is lawfully entitled to cast;

22 (9) Permits each voter, while voting, to clearly see the ballot label;

23 (10) [Has been tested and is certified by an independent authority that meets the voting
24 system standards developed by the Federal Election Commission or its successor agency. The
25 provisions of this subdivision shall not be required for any system purchased prior to August 28,
26 2002] **Produces the election results from paper ballots that voters have marked by hand
27 or, in the case of disabled voters who need assistance, from paper ballots that have been
28 marked by paper ballot-marking devices designed to assist disabled voters.**

29 3. [The secretary of state shall promulgate rules and regulations to allow the use of a
30 computerized voting system. The procedures shall provide for the use of a computerized voting
31 system with the ability to provide a paper audit trail. Notwithstanding any provisions of this
32 chapter to the contrary, such a system may allow for the storage of processed ballot materials in
33 an electronic form] **If any election authority uses any direct-record electronic touch-screen,
34 vote-counting machine to accommodate disabled voters, the election authority may
35 continue to use such machine solely for disabled voters who desire to use it. Upon the
36 removal of such voting machine from the election authority's inventory because of
37 mechanical malfunction, wear and tear, or any other reason, the machine shall not be
38 replaced and no additional direct-record electronic voting machine shall be added to the
39 election authority's inventory. Replacement of equipment for use by disabled voters shall
40 be with paper ballot-marking devices designed to assist disabled voters.**

41 4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
42 under the authority delegated in this section shall become effective only if it complies with and
43 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
44 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
45 pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule
46 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
47 proposed or adopted after August 28, 2002, shall be invalid and void.

115.237. 1. [Each ballot printed or designed for use with an electronic voting system for
2 any election pursuant to this chapter shall contain all questions and the names of all offices and
3 candidates certified or filed pursuant to this chapter and no other. As far as practicable, all

4 questions and the names of all offices and candidates for which each voter is entitled to vote shall
5 be printed on one page except for the ballot for political party committee persons in polling
6 places not utilizing an electronic voting system which may be printed separately and in
7 conformity with the requirements contained in this section. As far as practicable, ballots
8 containing only questions and the names of nonpartisan offices and candidates shall be printed
9 in accordance with the provisions of this section, except that the ballot information may be listed
10 in vertical or horizontal rows. The names of candidates for each office shall be listed in the order
11 in which they are filed] **The official ballot shall be a paper ballot that is hand-marked by the**
12 **voter or, in the case of disabled voters who need assistance, by a paper ballot-marking**
13 **device designed to assist disabled voters, except as provided in subsection 3 of section**
14 **115.225.**

15 2. Except as provided in subsection 5 of this section, each ballot shall have:

16 (1) Each party name printed in capital letters not less than eighteen point in size;

17 (2) The name of each office printed in capital letters not less than eight point in size;

18 (3) The name of each candidate printed in capital letters not less than ten point in size;

19 (4) A small square, the sides of which shall not be less than one-fourth inch in length,

20 printed directly to the left of each candidate's name and on the same line as the candidate's name.

21 When write-in votes are authorized and no candidate's name is to be printed under the name of
22 an office in a party or nonpartisan column, under the name of the office in the column shall be
23 printed a square. Directly to the right of the square shall be printed a horizontal line on which
24 the voter may vote for a person whose name does not appear on the ballot. When more than one
25 position is to be filled for an office, and the number of candidates' names under the office in a
26 column is less than the number of positions to be filled, the number of squares and write-in lines
27 printed in the column shall equal the difference between the number of candidates' names and
28 the number of positions to be filled;

29 (5) The list of candidates of each party and all nonpartisan candidates placed in separate
30 columns with a heavy vertical line between each list;

31 (6) A horizontal line extending across the ballot three-eighths of an inch below the last
32 name or write-in line under each office in such a manner that the names of all candidates and all
33 write-in lines for the same office appear between the same horizontal lines. If write-in votes are
34 not authorized, the horizontal line shall extend across the ballot three-eighths of an inch below
35 the name of the last candidate under each office;

36 (7) In a separate column or beneath a heavy horizontal line under all names and write-in
37 lines, all questions;

38 (8) At least three-eighths of an inch below all other matter on the ballot, printed in
 39 ten-point Gothic type, the words "Instructions to Voters" followed by directions to the voter on
 40 marking the ballot as provided in section 115.439;

41 (9) Printed at the top on the face of the ballot the words "Official Ballot" followed by the
 42 date of the election and the statement "Instruction to Voters: Place an X in the square opposite
 43 the name of the person for whom you wish to vote.".

44 3. As nearly as practicable, each ballot shall be in substantially the following form:

45 OFFICIAL BALLOT	DATE		
46 REPUBLICAN	DEMOCRATIC	THIRD PARTY	INDEPENDENT
47 For President	For President	For President	For President
48 and	and	and	and
49 Vice President	Vice President	Vice President	Vice President
50 <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
51			
52 For	For	For	For
53 United States	United States	United States	United States
54 Senator	Senator	Senator	Senator
55 <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
56			
57 For Governor	For Governor	For Governor	For Governor
58 <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
59			
60 For Lieutenant	For Lieutenant	For Lieutenant	For Lieutenant
61 Governor	Governor	Governor	Governor
62 <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
63			
64 For Secretary	For Secretary	For Secretary	For Secretary
65 of State	of State	of State	of State
66 <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
67			
68 For Treasurer	For Treasurer	For Treasurer	For Treasurer
69 <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
70			
71 For Attorney	For Attorney	For Attorney	For Attorney
72 General	General	General	General
73 <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

74	For	For	For	For
75	United States	United States	United States	United States
76	Representative	Representative	Representative	Representative
77	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
78				
79	For State	For State	For State	For State
80	Senator	Senator	Senator	Senator
81	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
82				
83	For State	For State	For State	For State
84	Representative	Representative	Representative	Representative
85	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
86				
87	For Circuit	For Circuit	For Circuit	For Circuit
88	Judge	Judge	Judge	Judge
89	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

90

91 4. No ballot printed or designed for use with an electronic voting system for any partisan
 92 election held under this chapter shall allow a person to vote a straight political party ticket. For
 93 purposes of this subsection, a "straight political party ticket" means voting for all of the
 94 candidates for elective office who are on the ballot representing a single political party by a
 95 single selection on the ballot.

96 5. The secretary of state shall promulgate rules that specify uniform standards for ballot
 97 layout for each electronic or computerized ballot counting system approved under the provisions
 98 of section 115.225 so that the ballot used with any counting system is, where possible, consistent
 99 with the intent of this section. Nothing in this section shall be construed to require the format
 100 specified in this section if it does not meet the requirements of the ballot counting system used
 101 by the election authority.

102 6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
 103 under the authority delegated in this section shall become effective only if it complies with and
 104 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
 105 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
 106 pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule
 107 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
 108 proposed or adopted after August 28, 2002, shall be invalid and void.

115.493. The election authority shall keep all voted ballots, ballot cards, processed ballot materials in electronic form and write-in forms, and all applications, statements, certificates, affidavits and computer programs relating to each election for twelve months after the date of the election. During the time that voted ballots, ballot cards, processed ballot materials in electronic form and write-in forms are kept by the election authority, it shall [not open or inspect them or allow anyone else to do so, except upon order of a legislative body trying an election contest, a court or a grand jury] **make available all records of the election for the purpose of review by any citizen's group that makes such a request in writing with the review to be conducted only on the election authority's premises with observers from the election authority present at all times. Ballots and other physical records of the election may not be removed from the premises at any time. Copies of electronic election records shall be provided upon request.** After twelve months, the ballots, ballot cards, processed ballot materials in electronic form, write-in forms, applications, statements, certificates, affidavits and computer programs relating to each election may be destroyed. If an election contest, grand jury investigation or civil or criminal case relating to the election is pending at the time, however, the materials shall not be destroyed until the contest, investigation or case is finally determined.

115.506. 1. No election shall be certified until an audit shall have been completed on the election returns. To certify an election, the audit must have the following characteristics:

(1) The audit shall demonstrate to the election authority that the vote counts accurately reflected the will of the voters.

(2) No fewer than five percent of the precincts within the election district shall be audited.

(3) Selecting the precincts to audit shall be based on a random sample selection process.

(4) All audit counts shall be hand-counted.

2. The entire audit process shall be open to the public, and both audio and video recording will be allowed.

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